

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
for Review of Entries to the Energy Resource
Recovery Account (ERRA) and Compliance
Review of Electric Contract Administration,
Economic Dispatch of Electric resources, and
Utility Retained Generation Fuel Procurement
Activities for the Record Period of
January 1 through December 31, 2005. (U 39 E)

Application 06-02-016
(Filed February 15, 2006)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON MOTIONS FOR LEAVE TO FILE UNDER SEAL
AND APPROVAL OF A PROTECTIVE ORDER**

By its February 15, 2006 motion, Pacific Gas and Electric Company (PG&E) moves for leave to file under seal certain information pertaining to its 2006 Energy Resource Recovery Account compliance and review application covering the record period January 1 through December 31, 2005. Such information includes PG&E's use of utility retained generation resources, energy under PG&E contracts, Department of Water Resources contracts allocated to PG&E, management of surplus energy, acquisition of power to meet the residual net short positions, and hedging activities. PG&E filed this motion pursuant to Public Utilities Code Section 583 and General Order (GO) 66-C.

By a companion motion, PG&E seeks a protective order to ensure that its sealed information and protective computer program materials relied on in developing its testimony remains confidential. Proposed protective agreements

(agreements) to govern access and use of all PG&E protected information were attached to that companion motion.

The granting of PG&E's request to seal confidential information and computer program materials included in its prepared testimony would not prejudice any party because PG&E would provide Commission staff access to such information and upon the signing of the agreements interested parties would also have access. It is also consistent with prior treatment of PG&E confidential information. The information tendered under seal shall remain under seal as set forth in this ruling, pursuant to GO 66-C and the authority therein cited by PG&E.

It is also reasonable to require interested parties to sign agreements to access this confidential information relied on by PG&E in developing its testimony. Such a request is consistent with Article 17.1 of the Commission's Rules of Practice and Procedure. However, approval of the specific agreements attached to PG&E's motion is premature.

Consistent with Rule 74.7 of the Commission's Rules of Practice and Procedure, PG&E should execute a mutually agreed upon agreement with any party other than Commission staff wanting to access sealed data PG&E relied on in developing its testimony. To the extent that parties cannot agree on a reasonable agreement, the assigned Administrative Law Judge upon receipt of a motion shall resolve any disputes.

Good cause appearing, **IT IS RULED** that:

1. The motion of Pacific Gas and Electric Company (PG&E) for leave to file under seal commercially sensitive information and protected computer program materials contained in its testimony and exhibits is granted.

2. Portions of PG&E testimony, concurrently submitted as a sealed document with its application, shall remain under seal during this proceeding, and during that period shall not be made accessible or disclosed to anyone other than Commission staff except on the execution of mutually acceptable protective agreements or on further order or ruling of the Commission, the Assigned Commissioner, the assigned Administrative Law Judge (ALJ), or the ALJ then designated as Law and Motion Judge.

3. PG&E shall provide the confidential information to the Commission staff under the protection of Public Utilities Code Section 583.

4. PG&E shall execute mutually agreed upon protective agreements with any party, other than Commission staff, wanting access to sealed information and computer models including algorithms and assumptions PG&E relied on in developing its testimony covered by a license agreement or deemed confidential. The assigned ALJ upon receipt of a motion shall resolve any disputes.

Dated March 3, 2006, at San Francisco, California.

/s/ MICHAEL J. GALVIN

Michael J. Galvin
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on Motions for Leave to File Under Seal and Approval of a Protective Order on all parties of record in this proceeding or their attorneys of record.

Dated March 3, 2006, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

N O T I C E

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